IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 28TH JULY 2006 / 6TH SRAVANA 1928

ST.Rev..No. 198 of 2003()

AGAINST THE ORDER DATED 30/04/2003 IN RA. 1 /2003 IN TA.407/1998 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.

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PETITIOER/REV.PETITIONER/APPELLANT/APLNT./ASSESSEE

M/S. UNITED CHARCOAL DEALERS,
THAMARASSERY, KOZHIKODE, REPRESENTED BY ITS MANAGING PARTNER, ABDUSSAMAD.

BY ADV. SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENTS: RESPONDENT/RESPONDENT/REVENUE

STATE OF KERALA, REPRESENTED BY
DEPUTY COMMISSIONER (LAW) COMMERCIAL TAXES,
ERNAKULAM.

BY G.P. SRI. GEORGEKUTTY MATHEW

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 28/07/2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR &
K.M.JOSEPH, JJ.

S.T.Rev. NO. 198 OF 2003

Dated this the 28th day of July, 2006

JUDGMENT

Ramachandran Nair,J.

Heard counsel for the petitioner and Government Pleader. This Tax Revision is filed challenging the order of the Tribunal whereunder the Tribunal held that firewood cannot be assed as timber. Petitioner has relied on clarification issued by the Commissioner of Commercial Taxes under Section 59A on 18.6.2001 clarifying that firewood is also timber. However, on going through the assessment order, we find petitioner itself has accounted substantial portion of the sales turnover under timber and balance sale as cut-ends and firewood. It is seen from the agreement Annexure A produced by the petitioner that petitioner has purchased standing trees from a plantation company and probably petitioner sold the useful portion of the timber obtained as timber and the remaining portion which could not be used as firewood. It is on this factual position that the Tribunal rejected the petitioner's case that firewood should also be assessed as timber. We do not find any

justification to reverse the finding of the Tribunal which is based on facts. Subsequent clarification, whether right or not, has no application so far as the assessment year 1993-94 is concerned.

ST Rev is therefore devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge

(K.M.JOSEPH)
Judge